

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of Applications of	)	
	)	
Mobil Oil Telecom, Ltd.	)	FCC File Nos. 0000716465, 0000716495
	)	
to Modify the License for	)	
Station WNTG513, Whiteface, Texas	)	

**ORDER**

**Adopted: June 19, 2002**

**Released: June 24, 2002**

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* On December 31, 2001, Mobil Oil Telecom, Ltd. (Mobil) submitted the above-captioned applications to modify its license to operate Multiple Address Systems (MAS) Station WNTG513, Whiteface, Texas.<sup>1</sup> In conjunction with its applications, Mobil submitted a request for waiver of the Commission's Rules<sup>2</sup> that would otherwise prohibit the proposed change in Station WNTG513's center coordinates.<sup>3</sup> For the reasons stated below, we grant Mobil's Waiver Request.

2. *Background.* In 2000, the Commission released a *Report and Order* in the MAS proceeding that, among other things modified the licensing approach for 928/959 MHz MAS spectrum from site-based to geographic area, on the grounds that this new licensing approach would best accommodate the current and future uses of the band.<sup>4</sup> The Commission also grandfathered the existing MAS incumbents in the 928/959 MHz band,<sup>5</sup> and decided that, even after the transition to geographic licensing, incumbents in the 928/959 MHz bands would be permitted to make certain modifications to existing systems as long as the signal level is not increased beyond the incumbent's 25-mile service area.<sup>6</sup> It also provided that geographic licensees had to protect incumbent operations, and could not exceed a signal strength of 40 dBuV/m at incumbent licensees' 25-mile radius counter.<sup>7</sup> The auction of MAS spectrum commenced on

<sup>1</sup> FCC 601 Main Form: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization, File Nos. 0000716465, 0000716495 (filed Dec. 31, 2001). File No. 0000716465 seeks permanent authorization to modify the license, while File No. 0000716495 requested special temporary authority to operate under the modified parameters pending resolution of the application for permanent authorization.

<sup>2</sup> 47 C.F.R. § 101.1331(c).

<sup>3</sup> FCC 601 Main Form: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization, File Nos.: 0000716465, 0000716495, Request for Rule Waiver (filed Dec. 31, 2001) (Waiver Request).

<sup>4</sup> See Amendment of the Commission's Rules Regarding Multiple Address Systems, *Report and Order*, WT Docket No. 97-81, 15 FCC Rcd 11956 (2000) (*Report and Order*); see also Amendment of the Commission's Rules Regarding Multiple Address Systems, *Memorandum Opinion and Order*, WT Docket No. 97-81, 16 FCC Rcd 12181, 12196 ¶ 38 (2001).

<sup>5</sup> *Report and Order*, 15 FCC Rcd at 11977 ¶ 55 ("allowing incumbent MAS operators on the 928/959 MHz band . . . to continue operations on these bands is in the public interest").

<sup>6</sup> *Id.* at 11980 ¶ 62; see 47 C.F.R. § 101.1331(c).

<sup>7</sup> 47 C.F.R. § 101.1333(c).

November 14, 2001<sup>8</sup> and concluded on November 27, 2001.<sup>9</sup>

3. Mobil is the licensee of Station WNTG513, a 928/959 MHz MAS station. Mobil uses the station to monitor and control hundreds of oil wells in the Whiteface, Texas area.<sup>10</sup> Specifically, Mobil uses the system to monitor important operating parameters, such as valve control settings, flow rates, volumes, pressure, and temperature, in order to operate the wells in a manner that protects both public safety and the environment.<sup>11</sup>

4. On December 31, 2001, Mobil filed the instant applications and Waiver Request. Mobil seeks a waiver of Section 101.1331(c) of the Commission's Rules so that it will be able to relocate the master transmitter for Station WNTG513 a distance of 25.5 miles.<sup>12</sup> Mobil states that, as a result of the merger between Exxon Corporation and Mobil Corporation, the existing Mobil production office in the vicinity of Whiteface is being closed and relocated to a new consolidated ExxonMobil office in Whiteface that had been occupied solely by Exxon prior to the merger.<sup>13</sup> According to Mobil, the relocation of these operations necessitates the relocation of the master transmitter for Station WNTG513 from the old office location to the new one.<sup>14</sup>

5. In addition to the Waiver Request, Mobil submitted a short-spacing agreement with Duke Energy Field Services, L.P. (Duke Energy), licensee of MAS Station WNEU304, Maljamar, New Mexico, which is co-channel with Station WNTG513.<sup>15</sup> Such an agreement is necessary because Mobil's proposed new location is 83.3 miles from the Station WNEU304.<sup>16</sup>

6. *Discussion.* Section 1.925 of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (b) application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>17</sup> Mobil argues that grant of its Waiver Request is warranted under the first prong of Section 1.925(b)(3), on grounds that denial of its Waiver Request would frustrate the underlying purpose of Section 101.1331(c).<sup>18</sup> Mobil states that, because it would be short-spaced with the incumbent Duke Energy station, the modification would actually increase the

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<sup>8</sup> See Auction of Licenses for Multiple Address Systems Spectrum, *Public Notice*, 16 FCC Rcd 17990 (2001).

<sup>9</sup> See Multiple Address Systems Spectrum Auction Closes, *Public Notice*, 16 FCC Rcd 21011 (2001). The geographic licenses encumbered by Mobil's current and proposed service areas were not assigned pursuant to the auction, and will be re-auctioned in the future. *Id.* at 21013-14.

<sup>10</sup> Waiver Request at 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> FCC 601 Main Form: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization, File No. 0000716465, Agreement for the Operation of Multiple Address System Stations in the Private Operational-Fixed Microwave Service with Spacing Criteria Less than that Specified by the Federal Communications Commission.

<sup>16</sup> See 47 C.F.R. §101.105(c)(3)(i) (requiring 145 km [approximately 90 miles] separation between co-channel site-based fixed MAS stations in the 928-929/952-960 MHz and 932-932.5/941-941.5 MHz bands).

<sup>17</sup> 47 C.F.R. § 1.925(b)(3).

<sup>18</sup> Waiver Request at 2-3.

amount of “white space”<sup>19</sup> available to a geographic licensee.<sup>20</sup> Mobil argues that grant of the Waiver Request would therefore further the underlying purpose of Section 101.1331(c), which is to prevent the reduction or limitation of unused spectrum available to geographic licensees.<sup>21</sup> Under the circumstances presented, we agree with Mobil that its request should be granted.

7. The purposes of the restriction on incumbents set forth in Section 101.1331(c) of the Commission’s Rules are “protecting future geographic area MAS licensees from co-channel interference from those licensees that are already constructed and operating, and . . . affording them the opportunity to build-out their systems within the geographic area for which they will pay.”<sup>22</sup> Our engineering review indicates that, even if Mobil relocates Station WNTG513 so that it is short-spaced with Station WNEU304, a geographic licensee still would be able to construct a co-channel site that would afford the incumbents the required protection.<sup>23</sup> Moreover, as Mobil notes, because of the short-spacing, more white space would be available to the geographic licensee on the other side of Station WNTG513. Based on the record before us, it appears that the relocated Station WNTG513 would not encumber any more area than the station does at its current location.<sup>24</sup> Consequently, we conclude that granting Mobil’s request is consistent with the purpose of Section 101.1331(c).<sup>25</sup>

8. Second, we agree with Mobil’s contention that grant of its Waiver Request would serve the public interest.<sup>26</sup> According to Mobil, requiring it to utilize a different MAS frequency band for its current system would impose substantial and unnecessary costs on Mobil as well as risk substantial disruption to the safety-related functions associated with Mobil’s operations.<sup>27</sup> Mobil asserts that use of a frequency band other than the 928/959 band would require it to purchase and implement an entirely new radio system or incur substantial reprogramming costs, including the purchase or re-tuning of hundreds of remote terminal units.<sup>28</sup> According to Mobil, such a purchase would entail Mobil assuming a significant financial burden, while simultaneously risking disruption of Mobil’s critical operations.<sup>29</sup> We also consider it significant that Mobil’s waiver involves the proposed relocation of a licensed MAS facility that is constructed and operational.

9. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, 47 U.S.C. § 154(i), and Section 1.925 of the Commission’s Rules, 47 C.F.R. § 1.925, the waiver

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<sup>19</sup> A term used to identify spectrum that the Commission has not authorized for use by a particular entity.

<sup>20</sup> Waiver Request at 2-3.

<sup>21</sup> *Id.*

<sup>22</sup> *Report and Order*, 15 FCC Rcd at 11978 ¶ 57.

<sup>23</sup> Section 101.1333(c) of the Commission’s Rules prohibits geographic area MAS licensees from exceeding a signal strength of 40 dBuV/m at incumbent licensees’ 25-mile contour. 47 C.F.R. § 101.1333(c). Mobil proposes to locate Station WNTG513 83.3 miles from Station WNEU304. Consequently, there would be 33.3 miles between the incumbents’ 25-mile contours in which the geographic licensee could operate, although it probably would have to utilize power and antenna height levels that are a little lower than a typical MAS station in order to conform with Section 101.1333(c).

<sup>24</sup> Waiver Request at 2.

<sup>25</sup> *Cf.*, e.g., City of Denton, Texas, *Order*, 15 FCC Rcd 23643, 23646-47 ¶ 8 (WTB PSPWD 2000).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 4.

<sup>28</sup> *Id.* Mobil asserts that such costs would total as much as \$160,000. *Id.*

<sup>29</sup> *Id.*

request filed by Mobil Oil Telecom, Ltd. on December 31, 2001 IS GRANTED.

10. IT IS FURTHER ORDERED that the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch SHALL PROCESS applications File Nos. 0000716465 and 0000716495, filed December 31, 2001, in accordance with this *Order*.

11. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. § 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau